

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1604

To provide for greater regulatory flexibility for small governments, lessen compliance burdens on small governments, test innovative regulatory methods, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 29 (legislative day, OCTOBER 13), 1993

Mr. GLENN (for himself, Mr. LEVIN, Mr. PRYOR, Mr. AKAKA, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To provide for greater regulatory flexibility for small governments, lessen compliance burdens on small governments, test innovative regulatory methods, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Governments  
5 Regulatory Improvement and Innovation Act of 1993”.

### 6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

- 1 (1) better determine the cost and other impacts
- 2 of regulation on small governments;
- 3 (2) encourage the use of more flexible regu-
- 4 latory approaches that lessen compliance burdens on
- 5 small governments; and
- 6 (3) test innovative methods of regulation.

7 **SEC. 3. DEFINITIONS.**

8 For the purposes of this Act—

- 9 (1) the term “small government” means a small
- 10 governmental jurisdiction as defined under section
- 11 601(5) of title 5, United States Code;
- 12 (2) the term “agency” means any agency as de-
- 13 fined under section 551(1) of title 5, United States
- 14 Code;
- 15 (3) the term “Director” means the Director of
- 16 the Office of Management and Budget;
- 17 (4) the term “Council” means the Council on
- 18 Small Governments established under section 8;
- 19 (5) the term “small entity” means a small en-
- 20 tity as defined under section 601(6) of title 5,
- 21 United States Code; and
- 22 (6) the term “Administrator” means the Ad-
- 23 ministrator of the Small Business Administration.

1 **SEC. 4. AGENCY RESPONSIBILITIES.**

2 (a) GUIDELINES.—The head of each agency shall,  
3 after opportunity for public comment, issue guidelines con-  
4 sistent with section 6(b) of this Act to ensure implementa-  
5 tion of chapter 6 of title 5, United States Code, by the  
6 agency.

7 (b) PLANS.—The head of each agency shall develop  
8 a plan to inform, educate, and advise small entities on  
9 compliance with any rule that has a significant impact on  
10 small entities. Such plan shall be published in the Federal  
11 Register in the notice of proposed rulemaking and the  
12 final rulemaking notice for any such rule, and shall include  
13 a listing of—

14 (1) local and regional workshops for the pur-  
15 pose of providing and receiving information about  
16 the impact of the rule;

17 (2) written guidance and other applicable publi-  
18 cations and their availability; and

19 (3) relevant Federal, State, and local technical  
20 assistance programs.

21 (c) REPORTS.—The head of each agency shall report  
22 annually to the Administrator and to the Director on the  
23 agency's implementation of this Act and compliance with  
24 the provisions of chapter 6 of title 5, United States Code.

1 **SEC. 5. SMALL GOVERNMENT COORDINATORS.**

2 (a) ESTABLISHMENT.—There is established in each  
3 agency the position of Small Government Coordinator who  
4 shall report directly to the head of the agency. The Small  
5 Government Coordinator shall—

6 (1) communicate the small government perspec-  
7 tive on agency rules and policies during the develop-  
8 ment of such rules and policies;

9 (2) oversee and report to the agency head on  
10 agency efforts to comply with chapter 6 of title 5,  
11 United States Code, as such chapter applies to small  
12 governmental jurisdictions, including—

13 (A) participation in the development of  
14 agency guidelines for the full implementation of  
15 chapter 6 of title 5, United States Code, as  
16 such chapter applies to small governmental ju-  
17 risdictions; and

18 (B) the development of alternative regu-  
19 latory proposals that accomplish the stated ob-  
20 jectives of applicable statutes and which mini-  
21 mize the impact of regulations on small govern-  
22 ments by working with—

23 (i) agency regulatory policy personnel;

24 (ii) national organizations represent-  
25 ing small governments;

26 (iii) local elected officials;

1 (iv) public policy experts;

2 (v) the Administrator;

3 (vi) the Director; and

4 (vii) the Council;

5 (3) advising the agency head on establishing  
6 electronic or other means of information collection to  
7 gather data on small governments;

8 (4) advising the agency head and the Director  
9 on the development and implementation of the pilot  
10 program established under section 6; and

11 (5) providing technical assistance to small gov-  
12 ernments on compliance with agency regulations.

13 (b) PERSONNEL.—To the greatest extent practicable,  
14 the head of each agency shall designate existing personnel  
15 to perform the duties described under this section.

16 (c) WAIVER.—(1) The head of an agency may waive  
17 the requirements of this section if such agency head—

18 (A) in consultation with the Council and in con-  
19 currence with the Director, certifies that the agency  
20 does not issue a significant number of rules affecting  
21 small governments; and

22 (B) publishes such certification in the Federal  
23 Register.

24 (2) Such waiver shall be reviewed annually and such  
25 certification shall be made annually, if appropriate.

1 **SEC. 6. REGULATORY COORDINATION.**

2 (a) OFFICE OF INFORMATION AND REGULATORY AF-  
3 FAIRS.—The Director shall delegate responsibility for the  
4 implementation of all duties of the Director under this Act  
5 to the Administrator of the Office of Information and Reg-  
6 ulatory Affairs.

7 (b) GUIDELINES.—The Director, in consultation with  
8 the Administrator of Small Business, shall issue guidelines  
9 to agencies on the identification of rules having a signifi-  
10 cant impact on small entities. In issuing the guidelines,  
11 the Director shall consider—

12 (1) the number of small entities that may be  
13 impacted by a rule;

14 (2) the economic cost or benefit to small enti-  
15 ties from compliance with a rule;

16 (3) the effect a rule may have on regional  
17 economies; and

18 (4) the reporting and paperwork requirements  
19 imposed on small entities by a rule.

20 (c) COMPLIANCE.—The Director, to the extent per-  
21 mitted by law and in consultation with the Administrator,  
22 shall be responsible for monitoring and coordinating agen-  
23 cy compliance with the requirements of this Act.

24 **SEC. 7. REGULATORY FLEXIBILITY PILOT PROGRAM.**

25 (a) ESTABLISHMENT.—The Director, in consultation  
26 with agencies and the Council, shall establish pilot pro-

1 grams in at least 2 agencies to test innovative, and more  
2 flexible regulatory approaches that—

3 (1) reduce reporting and compliance burdens on  
4 small entities; and

5 (2) meet overall statutory goals and objectives.

6 (b) PROGRAM CONTENTS.—The pilot programs shall  
7 focus on rules in effect or proposed rules, or a combination  
8 thereof, that have a significant impact on small entities,  
9 with equal emphasis given to rules that impact small gov-  
10 ernments, small business, and small organizations.

11 **SEC. 8. THE SMALL GOVERNMENTS ADVISORY COUNCIL.**

12 (a) ESTABLISHMENT.—(1) There is established a  
13 Small Governments Advisory Council composed of 9 rep-  
14 resentatives from small governments appointed by the  
15 President, of whom no more than 5 shall be from any one  
16 political party.

17 (2) No later than 6 months after the date of enact-  
18 ment of this Act, the President shall make the original  
19 appointments to the Council.

20 (b) MEMBERSHIP.—No less than 6 members of the  
21 Council shall be acting small governmental officials. Mem-  
22 bers of the Council shall—

23 (1) have an extensive understanding of and ex-  
24 perience with the operations of small governments;  
25 and

1           (2) represent a balance with respect to the re-  
2           gions, the sizes of small governments, and the occu-  
3           pations represented on the Council.

4           (c) DUTIES.—The duties of the Small Governments  
5   Advisory Council shall be to—

6           (1) serve as a focal point for the receipt of com-  
7           ments concerning the regulatory policies and activi-  
8           ties of agencies that affect small governments;

9           (2) advise the Small Government Coordinators  
10          as to the performance of their duties under section  
11          5;

12          (3)(A) develop proposals for changes in the reg-  
13          ulatory policies and activities of any agency which  
14          shall carry out the purposes of this Act; and

15          (B) communicate such proposals to the Director  
16          and appropriate agencies;

17          (4)(A) monitor the costs and other burdens of  
18          Federal regulation on small governments, including  
19          the cumulative effect of such regulation; and

20          (B) make legislative and nonlegislative propos-  
21          als for eliminating excessive or unnecessary regu-  
22          latory burdens placed on small governments;

23          (5) advise the Director on the implementation  
24          of section 6 as such section relates to small govern-  
25          ments; and



1           (6) report annually to the Administrator and  
2           the Director on the actions of the Council under this  
3           Act, including—

4                   (A) a summary of all proposals offered  
5                   under subsection (c)(3);

6                   (B) a detailed assessment, prepared in con-  
7                   sultation with the Small Government Coordina-  
8                   tors established under section 5, of the costs  
9                   and other burdens of government regulation on  
10                  small governments, including the cumulative ef-  
11                  fects of such regulation; and

12                  (C) an assessment of the effectiveness of  
13                  the pilot programs established under section 7.

14          (d) CHAIRMAN.—The Council shall elect a chairman  
15          and meet at the call of the chairman but no less often  
16          than every 6 months.

17          (e) MEETINGS.—The Director shall meet with the  
18          Council on a regular basis, but no less often than every  
19          6 months.

20          (f) FEDERAL ADVISORY COMMITTEE ACT.—The  
21          Council shall be subject to the Federal Advisory Commit-  
22          tee Act (5 U.S.C. App.).

23          (g) AUTHORIZATION OF APPROPRIATIONS.—There  
24          are authorized to be appropriated such sums as necessary  
25          to carry out the provisions of this section.

1 **SEC. 9. ASSISTANCE OF GOVERNMENT AGENCIES.**

2 Consistent with applicable law, each department,  
3 agency, and instrumentality of the Federal Government  
4 shall furnish to the Council such reports and other infor-  
5 mation as the Council determines necessary to carry out  
6 its duties under this Act.

7 **SEC. 10. TECHNICAL AMENDMENTS.**

8 Chapter 6 of title 5, United States Code, is amend-  
9 ed—

10 (1) in section 601(5) by inserting “Indian  
11 tribes,” after “school districts,”;

12 (2) in section 602(b) by inserting “the Director  
13 of the Office of Management and Budget and” after  
14 “transmitted to”; and

15 (3) in section 605(b)—

16 (A) in the first sentence by striking out  
17 “sections 603 and 604 of this title” and insert-  
18 ing in lieu thereof “sections 603(c) and 604 of  
19 this title”; and

20 (B) in the second sentence—

21 (i) by striking out “or at the time of  
22 publication of the final rule”; and

23 (ii) by inserting “the Director of the  
24 Office of Management and Budget and”  
25 after “such certification and statement  
26 to”.

